

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,) CASE NO. 8:09CR274
)
)
Plaintiff,)
)
)
vs.)
)
)
JULIO MARIANO-DIAZ,) PRELIMINARY ORDER
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)
)
Defendant.) OF FORFEITURE

This matter is before the Court on the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 28). The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant has pled guilty to Counts I and II of said Indictment. Count I of said Indictment charges the Defendant with being an alien illegally and unlawfully in the United States in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(5) and 924(a)(2). Count II of said Indictment charges the Defendant with using a Sturm Ruger, Mark II, semi-automatic .22 caliber pistol bearing serial number 214-91425 and one .22 caliber Long Rifle cartridge with "REM" stamped on the bottom on the basis they were firearms involved or used in the knowing commission of the offense charged in Count I.
2. By virtue of said pleas of guilty, the Defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c).

IT IS ORDERED:

- A. The United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 28) is hereby sustained.

B. Based upon Count II of the Indictment and the Defendant's plea of guilty, the United States is hereby authorized to seize the a Sturm Ruger, Mark II, semi-automatic .22 caliber pistol bearing serial number 214-91425 and one .22 caliber Long Rifle cartridge with "REM" stamped on the bottom.

C. The Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n)(1).

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Pursuant to 21 U.S.C. § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official Government internet site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

DATED this 28th day of September, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge